

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

2673

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on 10/08/2009

Signature, /Jamie Cameron/

Typed or printed name Jamie Cameron

Application Number

10/790,459

Filed

03/01/2004

First Named Inventor

Warren B. Cope

Art Unit

2614

Examiner

Amal S. Zenati

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐

applicant/inventor.

/David J. Bovitz/

Signature

☐

assignee of record of the entire interest.

See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.
(Form PTO/SB/96)

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10/08/2009

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.

Submit multiple forms if more than one signature is required, see below.

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*Total of 1 forms are submitted.

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Warren B. Cope

Confirmation No.: 9953

Application No.: 10/790,459

Art Unit: 2614

Filed: 03/01/2004

Examiner: Amal S. Zenati

For: METHOD AND APPARATUS FOR TRANSFERRING SERVICES FOR A
FIRST LOCATION TO A DIFFERENT LOCATION IN RESPONSE TO A
PREDETERMINED EVENT

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PRE-APPEAL BRIEF REQUEST FOR REVIEW

In response to the Advisory Action dated 08/24/2009, the Applicant requests review of the Final Rejection in the above-identified application. No amendments are being filed with this request. A Notice of Appeal under 37 C.F.R. § 41.31(a)(1) is being filed herewith. The review is requested for the reasons provided in the following remarks.

REMARKS

Claims 1-9, 11-17, 19-26, and 28-34 are pending. Claims 1-9, 11-17, 19-26, and 28-34 currently stand rejected. Claims 10, 18, 27, and 35 have been previously canceled. The Applicant respectfully requests consideration of the following remarks and allowance of claims 1-9, 11-17, 19-26, and 28-34.

Claim Rejections under 35 U.S.C. § 103(a)

Claims 1-9, 16, 17, 19-26, 33, and 34 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Calhoun (U.S. Patent No. 6,959,077) in view of Midwest Region ("Midwest Region: Primer for Local Number Portability," Issue 2, p. 1-31, 7/27/1997). The present rejection fails to address all of the limitations of claim 1, and thus represents clear error. The Applicant respectfully disagrees with the rejection for at least the following reasons.

Claim 1 recites in part, "in response to the occurrence of the predetermined event...all the phone numbers actively terminated by the first switch are ported to the second switch..." Calhoun and Midwest Region, neither separately, nor in combination, teach or suggest at least the above recited portion of claim 1.

In Calhoun, individual dialed directory numbers can have an associated *alternate directory number*, where the alternate number is used in case of failure of the individual *dialed* directory number (Calhoun, column 7, lines 17-26). However, Calhoun does not teach or suggest "in response to the occurrence of the predetermined event...*all the phone numbers actively terminated by the first switch are ported to the second switch...*" as recited in claim 1 (emphasis supplied). Instead, Calhoun uses an *alternate phone number* to route an incoming call to a second switch. The Advisory Action (page 2) mischaracterizes Calhoun by contending that Calhoun discloses *all phone numbers* actively terminated by a first switch are to be directed to a second switch (Calhoun, column 5, lines 11-66). The portion of Calhoun cited in the Advisory Action does not teach or suggest what is contended in the Advisory Action. Instead, the cited portion of Calhoun discusses using *alternate phone numbers* to route *individual* incoming calls to a different switch, where the individual alternate phone numbers must be individually set up ahead of time for special redirection services. Thus, Calhoun does not even teach or

suggest porting the *same phone numbers* to the second switch, nor “in response to the occurrence of the predetermined event...*all the phone numbers actively terminated by the first switch are ported to the second switch...*” as recited in claim 1.

The final Office Action then attempts to combine Midwest Region with Calhoun to attempt to teach or suggest porting phone numbers terminated by a first switch to a second switch (final Office Action page 7). However, Midwest Region does not teach or suggest “in response to the occurrence of the predetermined event...*all the phone numbers actively terminated by the first switch are ported to the second switch...*” as recited in claim 1 (emphasis supplied). Instead, Midwest Region teaches of an originating switch receiving a call request to a dialed phone number and responsively querying a database for an *alternate phone number prefix* (LRN) to direct a phone call to a different recipient switch when customers switch service providers or move geographic locations (Midwest Region, page 5, steps 2-3). It should be noted that the *alternate phone number prefix* (LRN) of Midwest Region identifies the *recipient switch* and thus is *not* the *dialed phone number received at the originating switch*. The recipient switch then *replaces* the incoming LRN digits with the dialed phone number (as stored in the GAP) to complete the call (Midwest Region, page 5, steps 6-7). Although Midwest Region discusses maintaining the same dialed number for a user to reach the dialed number at different switch (Calhoun, page 5), Midwest Region operates similarly to Calhoun, where dialed numbers are *redirected to alternate routes* on an *individual basis* for preselected numbers. Moreover, Midwest Region teaches associating the dialed number with an *alternate prefix* to route the call to a different switch. Thus, Midwest Region does not teach or suggest “in response to the occurrence of the predetermined event...*all the phone numbers actively terminated by the first switch are ported to the second switch...*” as recited in claim 1. Therefore, the inclusion of Midwest Region does not overcome the shortcomings of Calhoun, nor render such shortcomings obvious.

A proper rejection must consider all of the limitations of a claim. The present rejection fails to address all of the limitations of claim 1, namely “in response to the occurrence of the predetermined event...*all the phone numbers actively terminated by the first switch are ported to the second switch...*” and thus represents clear error. The rejection should therefore be withdrawn.

Based on the foregoing comments, the Applicant contends that claim 1 is allowable, and such indication is respectfully requested. Independent claim 19 contains limitations similar to claim 1 and, therefore, is also allowable.

Dependent claims 2-9, 16, 17, 20-26, 33, and 34 stand similarly rejected under 35 U.S.C. § 103(a) as being unpatentable over Calhoun (U.S. Patent No. 6,959,077) in view of Midwest Region ("Midwest Region: Primer for Local Number Portability," Issue 2, p. 1-31, 7/27/1997).

Dependent claims 11, 12, 28, and 29 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Calhoun (U.S. Patent No. 6,959,077) in view of Midwest Region ("Midwest Region: Primer for Local Number Portability," Issue 2, p. 1-31, 7/27/1997) and Ward (U.S. Patent No. 6,654,451).

Dependent claims 13-15 and 30-32 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Calhoun (U.S. Patent No. 6,959,077) in view of Midwest Region ("Midwest Region: Primer for Local Number Portability," Issue 2, p. 1-31, 7/27/1997) and Gibson (U.S. Patent No. 7,076,045).

The Applicant refrains from discussion of dependent claims 2-9, 11-17, 20-26, and 28-34 in view of their dependence from otherwise allowable independent claims 1 and 19.

Thus, in light of the discussion above, the Applicant respectfully requests withdrawal of the 35 U.S.C. § 103(a) rejections of claims 1-9, 11-17, 19-26, and 28-34.

CONCLUSION

Based on the above remarks, the Applicant submits that the claims in their present form are allowable over the art of record. Therefore, the Applicant respectfully solicits their allowance.

The Applicant hereby authorizes the Office to charge Deposit Account No. 210765 the appropriate fee under 37 C.F.R. § 41.20(b)(1) for the Notice of Appeal filed herewith, and the fee under 37 C.F.R. § 1.17(a)(1) for a one-month extension of time. Should the Office determine any other fees are necessary, the Office is hereby authorized to charge Deposit Account No. 210765.

Respectfully submitted,

/David J. Bovitz/

SIGNATURE OF PRACTITIONER

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